

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JACOB HEATH VANSLYKE

PLAINTIFF

v.

CAUSE NO. 1:17CV164-LG-RHW

PEARL RIVER COUNTY, MISSISSIPPI, ET AL.

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND GRANTING MOTION FOR SUMMARY JUDGMENT
FILED BY JOHN MONTGOMERY, M.D.**

This cause comes before the Court on the [81] Report and Recommendation of United States Magistrate Judge Robert H. Walker entered in this cause on September 25, 2018. Magistrate Judge Walker reviewed Plaintiff's claims in this prison conditions lawsuit and determined that the summary judgment motion filed by Defendant John Montgomery, M.D. should be granted. Plaintiff claims an Eighth Amendment violation based on allegations that he was referred to Dr. Montgomery for psychiatric care, and the doctor would not see/treat him. Magistrate Judge Walker concluded that Plaintiff did not show a question of material fact for the jury concerning denial of constitutionally adequate medical care, because there was no evidence that Dr. Montgomery knew Plaintiff faced a substantial risk of serious bodily harm and was deliberately indifferent to his serious medical needs.

Plaintiff has not objected to the Magistrate Judge's findings and conclusions, and the time for doing so has passed. In these circumstances, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.

1989). After having reviewed the Report and Recommendation and the record in this case, the Court finds that the Magistrate Judge's conclusion is neither clearly erroneous nor contrary to law. Accordingly, it will be adopted by this Court. Dr. Montgomery's summary judgment motion will be granted and Plaintiff's claims against him dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that the [81] Report and Recommendation of United States Magistrate Judge Robert H. Walker entered in this cause on September 25, 2018, should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the [67] Motion for Summary Judgment filed by John Montgomery, M.D. is **GRANTED**. Plaintiff's claims against John Montgomery, M.D. are **DISMISSED** with prejudice.

SO ORDERED AND ADJUDGED this the 5th day of November, 2018.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.

UNITED STATES DISTRICT JUDGE